IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**

**and**
**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT APPEAL NO : 1965 OF 2004**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 28/2/2003 IN W.P.NO:12318 of 1999.)

Between:

V.Narayana, s/o Siddaiah, 61 years, Deputy Executive Officer (Retired), S.V. Central Library and Reasearch Centre near S.P. Guest House, Tirupathi.

**..... APPELLANT**

AND

Tirumala Tirupathi Devasthanam, represented by its Executive Officer, Tirupathi.

**.....RESPONDENT**

**Counsel for the Appellant: MR.S.SATYANARAYANARAO**

**Counsel for the Respondent No.: A.K.JAIPRAKASH RAO**

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The Court made the following :

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ORDER: (Per the Honourable Smt. Justice T.Meenakumari)

This writ appeal is filed by the writ petitioner-appellant herein aggrieved by the order in W.P.No:12318 of 1999, under which the learned single Judge allowed the writ petition to the extent indicated therein.

W.P.No:12318 of 1999 has been filed by the writ petitioner-appellant herein seeking for a direction to declare the orders of the respondent in ROC.No:DA/1/46054/94, dated 30.4.1996 and the rejection orders of the respondent in L.Dis.No:DA1/3083/99, dated 11.3.1999 and not treating the period of absence commencing from 1.8.1993 to 20.1.1995 as duty for the purpose of pay, salaries, increments and for fixation of salary as arbitrary and illegal and to direct the respondent to treat the above period as duty for all purposes viz., fixation of salary, increments and other benefits. The learned single Judge having observed that the appellant had already suffered the consequences of treating the period of absence as leave by losing increments etc., till his retirement and that itself is enough for the misconduct alleged on the part of the appellant, directed the respondent to regulate

the period of absence from duty of the appellant from 13.8.1993 to 20.1.1995 treating the same as on duty for the purpose of calculating pension and other retrial benefits only. Dissatisfied with the same, the writ petitioner has preferred this appeal.

Heard the learned counsel on either side.

According to the appellant, he applied for leave for a period of two months, which expired on 31.7.1993. Prior to expiry of the said leave, he filed a representation on 29.7.1993 requesting for his promotion to the post of Assistant Executive Officer since all his juniors were promoted to the said post. Meanwhile, on 13.10.1993, an order was passed promoting him as Superintendent, but, in order to avoid humiliation, he had not joined the said post at Akkarampalli. However, he was promoted to the post of Assistant Executive Officer by proceedings dated 20.1.1995 and thereafter, his seniority was also restored over and above his juniors vide order dated 18.2.1996. That is why, even after expiry of leave by 31.7.1993, he had not reported to duty till 21.1.1995 i.e., the date on which he jointed in the post of Assistant Executive Officer. Further, he was promoted to the post of Deputy Executive Officer in the month of May, 1998 and worked as such till he retired. Subsequently, he was issued a charge memo dated 13.4.1995 stating on expiry of the medical leave on 31.7.1993, neither he joined duty nor extended the leave up to 20.1.1995. After completion of the enquiry, an order was passed on 30.4.1996 treating the said period commencing from 1.8.1993 to 20.1.1995 as leave. On a representation by the appellant to treat the same as duty period, the same was rejected.

On the other hand, it is the contention of the respondent that the appellant disobeyed the orders of transfer and did not joint duty till 20.1.1995 and he joined duty only on 21.1.1995 on his promotion as Assistant Executive Officer. An enquiry was conducted and while imposing punishment, the respondent having taken a lenient view treated the absence of the appellant from duty as leave instead of treating the same “dies non” and therefore, the writ appeal is liable to be dismissed.

We have perused the order impugned. The learned single Judge has observed that the appellant had already suffered the consequences of treating the period of absence as leave by losing increments etc., till his retirement and that itself is enough for the misconduct alleged on the part of the appellant. In that view of the matter, the learned single Judge has directed the respondent to regulate the period

of; absence from duty of appellant from 13.8.1993 to 20.1.1995 treating the same as on duty for the purpose of calculating pension and other retrial benefits only and has made it clear that the appellant is not entitled for any salary etc., for the said period and they can only be considered for the purpose of fixing his pension and paying other retrial benefits such gratuity etc.

The undisputed fact is that the appellant was absent from duty from 13.8.1993 till 20.1.1995 without any reasonable cause and he was already retired as Deputy Executive Officer. In this view of the matter and in the present facts and circumstances of the case and in view of the observations made by the learned single Judge, We have no hesitation to hold that the direction issued by the learned single Judge, is just and proper and it would meet the ends of justice. As such, We see no merits in this appeal and the same is liable to be dismissed.

Accordingly, this writ appeal is dismissed at the admission stage. No costs.

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Justice T.Meenakumari

14th December, 2004

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justice S.Ananda Reddy

Gurc.

Copies to

1. V.Narayana, s/o Siddaiah, 61 years, Deputy Executive Officer (Retired), S.V. Central Library and Reasearch Centre near S.P. Guest House, Tirupathi.

2.The Executive Officer, Tirumala Tirupathi Devasthanam, Tirupathi.

3.Two C.Ds.

**HONOURABLE SMT. JUSTICE T.MEENAKUMARI**

**&**

**HONOURABLE SRI JUSTICE S.ANANDA REDDY**

**W.A.No:1965 of 2004**

**(order pronounced by Smt.Justice T.Meenakumari)**

**14th December, 2004**